

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

139P0203

## SENATE BILL NO. 133

Introduced by: Senators Duenwald, Abdallah, Albers, Gant, Garnos, Hansen (Tom), Hauge, Maher, McCracken, McNenny, Napoli, and Schmidt (Dennis) and Representatives Hunt, DeVries, Hackl, Juhnke, Kirkeby, Koistinen, Krebs, Lucas, Rausch, Steele, Turbiville, Wick, and Willadsen

1 FOR AN ACT ENTITLED, An Act to require that any adult arrested for a qualifying offense  
2 provide a DNA sample.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 23-5A be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any person eighteen years of age or older who is arrested for a qualifying offense shall  
7 provide a DNA sample upon booking or as determined by the supervising agency. If it is  
8 determined that the person's DNA sample is included in the State DNA Database, no additional  
9 sample is required.

10 Section 2. That § 23-5A-4 be amended to read as follows:

11 23-5A-4. Any person convicted or adjudicated delinquent for a qualifying offense on or after  
12 July 1, 2003, shall provide a DNA sample upon intake or as determined by the supervising  
13 agency. However, this requirement does not apply if the person's DNA sample is included in the  
14 State DNA Database. A person who has been convicted or adjudicated delinquent for a



1 qualifying offense before July 1, 2003, and who is still incarcerated or under supervision as of  
2 July 1, 2003, shall provide a DNA sample as determined by the supervising agency or  
3 institution.

4 Section 3. That § 23-5A-28 be amended to read as follows:

5 23-5A-28. Any person whose DNA record or DNA profile has been included in the State  
6 DNA Database in accordance with this chapter may request expungement on the grounds that  
7 the arrest that led to the inclusion of the person's DNA record or DNA profile has not resulted  
8 in a felony charge within one year; has been resolved by a dismissal, acquittal, or misdemeanor  
9 conviction; or has not resulted in a felony conviction; or the conviction or delinquency  
10 adjudication on which the authority for including that person's DNA record or DNA profile was  
11 based has been reversed and the case dismissed.